

**DECEMBER 18, 2007**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION****JUDGE KAPALA  
MAGISTRATE JUDGE MAHONEY****THE INDEPENDENT ORDER OF  
FORESTERS,**

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**Plaintiff,**

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**vs.****No.: \_\_\_\_\_****THE ESTATE OF SUSAN  
COLDREN, and**

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)

**DUSTIN COLDREN**

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)

**Defendants.**

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**07 C 50242****THE INDEPENDENT ORDER OF FORESTERS'  
COMPLAINT FOR INTERPLEADER**

The Independent Order of Foresters (“Foresters”) by its attorneys, Donald A. Murday, Morgan J. Milner, and Chittenden, Murday & Novotny LLC, for its complaint for interpleader relief against the Estate of Susan Coldren (“Estate”) and Dustin Coldren (“Dustin”), states as follows:

**Statement of Jurisdiction**

1. Foresters brings this Complaint for Interpleader pursuant to 28 U.S.C. §§ 1335, 1397, and 2361 (2007), with respect to the rights and obligations of the parties pursuant to a certificate of life insurance, Certificate No. 4129885 (“Certificate”), owned by and insuring Marlin D. Coldren (“Insured”) with a face value of \$20,000.
2. Two or more of the adverse claimants in this action are of diverse citizenship, and the amount in controversy exceeds \$500.00.
3. Foresters is a Canadian financial institution, with its principal place of business located in Toronto, Ontario, Canada.

4. Upon information and belief, the late Susan Coldren was a resident and citizen of Winnebago County, Illinois, and the Estate was probated in Winnebago County, Illinois.

5. Upon information and belief, Dustin Coldren is a resident and citizen of Monroe County, Tennessee.

**Claim for Interpleader**

6. The Certificate was issued by Foresters on April 13, 1993. A copy of the "Certificate Specifications" is attached hereto as Exhibit A.

7. On the date of issue, Susan Coldren, the Insured's spouse was the primary beneficiary of the Certificate.

8. On May 31, 1999 Foresters received a "Change of Beneficiary" form from the Insured naming Robert Lee Coldren the primary beneficiary of the Certificate and naming Dustin the contingent beneficiary of the Certificate. Foresters recorded this beneficiary change that same day. A copy of the "Change of Beneficiary Form is attached hereto as Exhibit B.

9. On March 2, 2000, Susan Coldren and the Insured were divorced.

10. On August 17, 2004 Robert Lee Coldren died.

11. On September 5, 2005 the Insured died while the Certificate was in full force and effect and Foresters became obligated to pay life insurance benefits in the amount of \$20,000.

12. On October 24, 2005 Forester's received a "Claimant's Statement" from Susan Coldren making a claim to the proceeds of the Certificate. A copy of "Claimant's Statement" is attached hereto as Exhibit C.

13. On April 23, 2006 Susan Coldren died.

14. On or about June 27, 2007 the Estate brought a motion in *In re the Matter of the Estate of: Susan Coldren*, Case No. 06 P 268, presently proceeding in the Circuit Court for the 17th Judicial Circuit (Winnebago County, Illinois), to enjoin Foresters from distributing the

proceeds of the Certificate. The Court entered an order enjoining Foresters from distributing the Certificate proceeds on July 30, 2007 ("Injunction").

15. Foresters has located Dustin and advised him of his potential rights under the Certificate, but Dustin has neither formally claimed the proceeds nor repudiated his latent claim to the proceeds.

16. The claims to the Certificate proceeds are adverse to each other and conflicting and by reason of those adverse and conflicting claims, Foresters is unable to discharge its admitted liability for proceeds under the Certificate without exposing itself to multiple litigation or liability or both.

17. Foresters is indifferent as to which of the claimants is entitled to the insurance proceeds and is interested only in paying and discharging its admitted liability once; however, it has been unable to do so by reason of the adverse and conflicting claims of the claimants and thus file this Complaint for Interpleader.

**WHEREFORE**, The Independent Order of Foresters prays this Honorable Court enter an order or orders granting it the following relief:

A. Enjoining the claimants, the Estate of Susan Coldren and Dustin Coldren, and each of them, during the pendency of this case and thereafter permanently and perpetually, from commencing or prosecuting any proceeding or claim against Foresters in any state or federal court or other forum with respect to the insurance proceeds payable under the Certificate and on account of the death of Marlin D. Coldren, the Insured, and that said injunction issue without bond or surety;

B. Ordering the Estate of Susan Coldren to bring an appropriate motion to set aside the Injunction entered on July 30, 2007 in *In re the Matter of the Estate of: Susan Coldren*, Case

No. 06 P 268, presently proceeding in the Circuit Court for the 17th Judicial Circuit (Winnebago County, Illinois);

C. Granting judgment to Foresters with a finding that it has no further liability to the claimants, the Estate of Susan Coldren and Dustin Coldren, or to any of them, or to any person or entity claiming through them, or any of them, for insurance benefits payable on account of the death of Marlin D. Coldren;

D. Excusing Foresters from further attendance on this cause and ordering the adverse claimants, the Estate of Susan Coldren and Dustin Coldren, to litigate their claims and contentions to the Certificate proceeds without further involving Foresters;

E. Awarding Foresters its actual court costs and attorneys fees incurred in connection with prosecuting this complaint of interpleader;

F. Granting Foresters such further and other relief as this Court may deem appropriate.

Respectfully submitted,

THE INDEPENDENT ORDER OF FORESTERS

By: /s/Morgan J. Milner

Morgan J. Milner, one of its attorneys

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